

FIRST REGULAR SESSION

# HOUSE BILL NO. 1002

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES DEMPSEY, DOLAN, LEVIN, BEARDEN, GRIESHEIMER, NAEGER, HANAWAY (Co-sponsors), HOHULIN, WRIGHT, HEGEMAN, KING, COOPER, OSTMANN, BLACK, CROWELL, JETTON, MYERS, BALLARD, LUETKEMEYER, ENZ, ROARK, REID, PORTWOOD AND HENDERSON.

Read 1<sup>st</sup> time March 15, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

2191L.011

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### AN ACT

To amend chapter 196, RSMo, by adding thereto nine new sections relating to the establishment of the Missouri tobacco settlement attorney fee trust fund, with an emergency clause.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 196, RSMo, is amended by adding thereto nine new sections, to be known as sections 196.1050, 196.1053, 196.1056, 196.1059, 196.1062, 196.1065, 196.1067, 196.1068 and 196.1071, to read as follows:

**196.1050. Sections 196.1050 to 196.1071 shall be known as "The Missouri Tobacco Settlement Attorney Compensation Act".**

**196.1053. The state attorney general shall have the authority to enter into an agreement with any company which manufactures, sells or promotes tobacco or tobacco products for recovery of costs and attorneys' fees contained in the model fee pay agreement of the master settlement agreement between the parties pursuant to the provisions of the Missouri tobacco settlement attorney compensation act.**

**196.1056. 1. There is hereby created in the state treasury the "Missouri Tobacco Settlement Attorney Fee Trust Fund".**

**2. The state treasurer shall deposit in the Missouri tobacco settlement attorney fee trust fund all moneys received by the state which are the proceeds of any award or settlement resulting from any dispute for legal fees between the state, the Missouri attorney general, the lead special assistant attorney general, any attorneys contracted by the lead special assistant attorney general and any company which manufactures, sells or promotes tobacco or tobacco products.**

9           **3. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys**  
10 **deposited in the Missouri tobacco settlement attorney fee trust fund, including any interest**  
11 **thereon, shall not revert to the credit of the general revenue fund at the end of the**  
12 **biennium.**

13           **4. The moneys deposited in the Missouri tobacco settlement attorney fee trust fund,**  
14 **including any interest thereon, shall not be appropriated by the general assembly until**  
15 **after July 1, 2002.**

16           **5. The commissioner of administration shall maintain data in an electronic format**  
17 **on receipts to and expenditures from the Missouri tobacco settlement attorney fee trust**  
18 **fund. Such data shall be updated at least quarterly, shall indicate expenditures by object**  
19 **type and class and shall be available to the public on the Internet.**

**196.1059. 1. The attorney general shall zealously collect all attorney fees due the**  
2 **state, its subcontractors, agents or assigns and deposit the proceeds of any award or**  
3 **settlement with the state treasurer.**

4           **2. In all cases involving claims for legal fees against any company which**  
5 **manufactures, sells or promotes tobacco or tobacco products, the attorney general shall**  
6 **represent the lead special assistant attorney general, all special assistant attorney generals,**  
7 **their subcontractors, agents and assigns.**

8           **3. All special assistant attorney generals, their subcontractors, agents and assigns**  
9 **are expressly prohibited from receiving direct payments or settlements from any company**  
10 **which manufactures, sells or promotes tobacco or tobacco products.**

11           **4. All persons seeking payment for legal services provided to the state in connection**  
12 **with litigation against any company which manufactures, sells or promotes tobacco or**  
13 **tobacco products shall assist the attorney general in obtaining payment for their attorney**  
14 **fees.**

15           **5. Payments to special assistant attorney generals, their subcontractors, agents or**  
16 **assigns shall be made by the state of Missouri from the tobacco settlement attorney fee**  
17 **trust fund pursuant to the procedures outlined in sections 196.1050 to 196.1071.**

**196.1062. 1. The "Missouri Commission on Tobacco Attorney Fee Compensation"**  
2 **is hereby established. The supreme court of Missouri shall provide clerical and**  
3 **administrative support to the commission.**

4           **2. The commission shall be composed of four members. Commission members shall**  
5 **be reimbursed for expenses. All members of the commission shall be members of the**  
6 **Missouri general assembly and shall be selected in the following manner:**

7           **(1) The speaker of the house of representatives shall select two members of the**  
8 **commission. The majority and minority floor leaders of the house of representatives shall**

9 each submit a list of three names to the speaker. The speaker shall select one commission  
10 member from each list. The two committee members selected shall not be members of the  
11 same political party;

12 (2) The president pro tem of the senate shall select two members of the commission.  
13 The majority and minority floor leaders of the senate shall each submit a list of three  
14 names to the president pro tem. The president pro tem shall select one commission  
15 member from each list. The two committee members selected shall not be members of the  
16 same political party.

17 3. The members shall be appointed as soon as possible after the effective date of  
18 sections 196.1050 to 196.1071.

19 4. No business of this committee shall be conducted without at least three members  
20 present.

21 5. No money shall be paid to attorneys from the tobacco settlement attorney fee  
22 trust fund without the written opinion of a majority of the members of the Missouri  
23 commission on tobacco attorney fee compensation.

196.1065. 1. All special assistant attorney generals, subcontracting attorneys, their  
2 agents and assigns shall submit written requests for payment of fees and expenses to the  
3 commission by December 31, 2001. All payment requests for attorney fees received after  
4 December 31, 2001, shall not be considered by the commission.

5 2. Attorneys submitting requests for payment shall include evidence of the hours  
6 worked on the case, expenses incurred, the aggregate fee amount requested, and shall  
7 submit a copy of the request for payment and supporting documentation to the attorney  
8 general.

196.1067. Within thirty days after receipt of each request for payment and  
2 supporting documentation, the attorney general shall file a written recommendation with  
3 the commission stating what constitutes a reasonable fee for the attorney applicant. Any  
4 commissioner may request and any attorney applying for fee payment shall provide any  
5 work product or any other evidence relating to the attorney's fee request.

196.1068. 1. The commission shall hold at least one public hearing concerning each  
2 attorney's request for compensation. Members of the public shall be allowed to make  
3 comments and submit payment proposals for attorney fees.

4 2. No attorney shall be awarded more than five hundred dollars per hour for the  
5 services. The sum of all commission awards shall not exceed the amount of money payable  
6 to the Missouri tobacco settlement attorney fee trust fund resulting from any dispute for  
7 legal fees between the attorney general and any company which manufactures, sells or  
8 promotes tobacco or tobacco products.

9           **3. The commission shall determine the amounts to be awarded to all attorney**  
10 **applicants and a payment schedule by July 1, 2002. After July 1, 2002, all money**  
11 **remaining in the tobacco settlement attorney fee trust fund shall be subject to**  
12 **appropriation by the general assembly for health care and education.**

**196.1071. If any provisions of sections 196.1050 to 196.1068 or the application**  
2 **thereof to anyone or to any circumstances is held invalid, the remainder of those sections**  
3 **and the application of such provisions to other circumstances shall not be affected thereby.**

          Section B. Because of the need to establish accounting for the tobacco settlement  
2 proceeds, section A of this act is deemed necessary for the immediate preservation of the public  
3 health, welfare, peace and safety, and is hereby declared to be an emergency act within the  
4 meaning of the constitution, and section A of this act shall be in full force and effect upon its  
5 passage and approval.